

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Lawrence Hasha**

Plaintiff,

v.

**140 Toll House Hotel, LLC**, a  
Delaware Limited Liability Company

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Lawrence Hasha complains of 140 Toll House Hotel, LLC, a  
Delaware Limited Liability Company, and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He has  
multiple sclerosis and is an above-the-knee amputee (right leg) who depends  
upon a wheelchair for mobility.

2. Defendant 140 Toll House Hotel, LLC owned Toll House Hotel located  
at or about 140 S Santa Cruz Ave, Los Gatos, California, in September 2020.

3. Defendant 140 Toll House Hotel, LLC owns Toll House Hotel ("Hotel")  
located at or about 140 S Santa Cruz Ave, Los Gatos, California, currently.

4. Plaintiff does not know the true names of Defendants, their business

1 capacities, their ownership connection to the property and business, or their  
2 relative responsibilities in causing the access violations herein complained of,  
3 and alleges a joint venture and common enterprise by all such Defendants.  
4 Plaintiff is informed and believes that each of the Defendants herein is  
5 responsible in some capacity for the events herein alleged, or is a necessary  
6 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
7 the true names, capacities, connections, and responsibilities of the Defendants  
8 are ascertained.

9  
10 **JURISDICTION & VENUE:**

11 5. The Court has subject matter jurisdiction over the action pursuant to 28  
12 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
13 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

14 6. Pursuant to supplemental jurisdiction, an attendant and related cause  
15 of action, arising from the same nucleus of operative facts and arising out of  
16 the same transactions, is also brought under California's Unruh Civil Rights  
17 Act, which act expressly incorporates the Americans with Disabilities Act.

18 7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
19 founded on the fact that the real property which is the subject of this action is  
20 located in this district and that Plaintiff's cause of action arose in this district.

21  
22 **FACTUAL ALLEGATIONS:**

23 8. Plaintiff stayed at the Hotel in September 2020 with the intention to  
24 avail himself of its services and to assess the business for compliance with the  
25 disability access laws.

26 9. The Hotel is a facility open to the public, a place of public  
27 accommodation, and a business establishment.

28 10. Unfortunately, on the date of the plaintiff's visit, the defendants failed

1 to provide wheelchair accessible guestrooms in conformance with the ADA  
2 Standards as it relates to wheelchair users like the plaintiff.

3 11. The Hotel provides guestrooms to its customers but failed to provide a  
4 wheelchair accessible guestroom to plaintiff.

5 12. A few problems that plaintiff encountered is that plaintiff was promised  
6 a guest room with a roll-in shower. Plaintiff reserved a room with a roll-in  
7 shower but learned, just a day before his arrival, that his room had been given  
8 away to another customer. Plaintiff was entitled to rely on the Hotel's  
9 assurance that he would receive the room that he reserved.

10 13. The Hotel, after notifying plaintiff that his room had been given away,  
11 was offered an alternative room that was supposed to be both a suite and fully  
12 accessible for wheelchair users. Even though the plaintiff was upset about not  
13 receiving the original room that he reserved, he reluctantly accepted the  
14 alternative accommodations --- especially because he had already planned his  
15 trip and was to arrive the next day.

16 14. When plaintiff arrived at the Hotel, he was given a key and the room  
17 number to the room that was supposed to be accessible. Upon arriving to the  
18 room, plaintiff learned that the room was, in fact, not accessible.

19 15. The paths of travel inside the guestroom were narrow due to the  
20 configuration of the room. Moreover, many of the devices, controls, peephole  
21 and coat hook were too high for wheelchairs users.

22 16. Plaintiff believes that there are other features of the guestrooms that  
23 likely fail to comply with the ADA Standards and seeks to have fully compliant  
24 guestrooms available for wheelchair users.

25 17. On information and belief, the defendants currently fail to provide  
26 wheelchair accessible guestrooms.

27 18. These barriers relate to and impact the plaintiff's disability. Plaintiff  
28 personally encountered these barriers.

1       19. As a wheelchair user, the plaintiff benefits from and is entitled to use  
2 wheelchair accessible facilities. By failing to provide accessible facilities, the  
3 defendants denied the plaintiff full and equal access.

4       20. The failure to provide accessible facilities created difficulty,  
5 embarrassment, frustration, and discomfort for the Plaintiff.

6       21. The defendants have failed to maintain in working and useable  
7 conditions those features required to provide ready access to persons with  
8 disabilities.

9       22. The barriers identified above are easily removed without much  
10 difficulty or expense. They are the types of barriers identified by the  
11 Department of Justice as presumably readily achievable to remove and, in fact,  
12 these barriers are readily achievable to remove. Moreover, there are numerous  
13 alternative accommodations that could be made to provide a greater level of  
14 access if complete removal were not achievable.

15       23. Plaintiff will return to the Hotel to avail himself of its services and to  
16 determine compliance with the disability access laws once it is represented to  
17 him that the Hotel and its facilities are accessible. Plaintiff is currently  
18 deterred from doing so because of his knowledge of the existing barriers and  
19 his uncertainty about the existence of yet other barriers on the site. If the  
20 barriers are not removed, the plaintiff will face unlawful and discriminatory  
21 barriers again.

22       24. Given the obvious and blatant nature of the barriers and violations  
23 alleged herein, the plaintiff alleges, on information and belief, that there are  
24 other violations and barriers on the site that relate to his disability. Plaintiff will  
25 amend the complaint, to provide proper notice regarding the scope of this  
26 lawsuit, once he conducts a site inspection. However, please be on notice that  
27 the plaintiff seeks to have all barriers related to his disability remedied. See  
28 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff

encounters one barrier at a site, he can sue to have all barriers that relate to his disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

25. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

26. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADA Standards.
- c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and

1 the bathrooms, telephones, and drinking fountains serving the  
2 altered area, are readily accessible to and usable by individuals  
3 with disabilities. 42 U.S.C. § 12183(a)(2).

4 27. When a business provides facilities such as guestrooms, it must provide  
5 accessible guestrooms.

6 28. Here, accessible guestrooms were not provided in conformance with the  
7 ADA Standards on the day of plaintiff's visit.

8 29. The Safe Harbor provisions of the 2010 Standards are not applicable  
9 here because the conditions challenged in this lawsuit do not comply with the  
10 1991 Standards.

11 30. A public accommodation must maintain in operable working condition  
12 those features of its facilities and equipment that are required to be readily  
13 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

14 31. Here, the failure to ensure that the accessible facilities were available  
15 and ready to be used by the plaintiff is a violation of the law.

16  
17 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
18 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
19 Code § 51-53.)

20 32. Plaintiff repleads and incorporates by reference, as if fully set forth  
21 again herein, the allegations contained in all prior paragraphs of this  
22 complaint. The Unruh Civil Rights Act ("Unruh Act") guarantees, inter alia,  
23 that persons with disabilities are entitled to full and equal accommodations,  
24 advantages, facilities, privileges, or services in all business establishment of  
25 every kind whatsoever within the jurisdiction of the State of California. Cal.  
26 Civ. Code § 51(b).

27 33. The Unruh Act provides that a violation of the ADA is a violation of the  
28 Unruh Act. Cal. Civ. Code, § 51(f).

34. Defendants' acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered.

35. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort or embarrassment for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act, which provides for actual damages and a statutory minimum of \$4,000 for each offense.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

Dated: December 11, 2020      CENTER FOR DISABILITY ACCESS



By: \_\_\_\_\_

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